



## **Semi-Annual Report No. 1**

# **Criminal Sentencing Practices in Wisconsin: Burglary**

**March 2005**

# THE WISCONSIN SENTENCING COMMISSION

The Commission is an independent, bipartisan agency composed of eighteen voting members representing all three branches of government, prosecution and defense, criminal justice practitioners, and citizens, including a victims' rights representative. Its members are selected by the governor, the legislature, the attorney general and the courts and serve a three-year, renewable term. It provides sentencing data and information to courts, policymakers, practitioners, and the public and makes recommendations about sentencing policy to all three branches of state government.

## **Chairperson**

Susan Steingass, *Wisconsin School of Law*

## **Voting Members**

Daniel P. Bach, *Office of the Attorney General*

Rep. Garey Bies, *Wisconsin Assembly*

John Birdsall, *Birdsall Law Offices, S.C.*

Sen. Spencer Coggs, *Wisconsin State Senate*

The Honorable Patrick J. Fiedler, *Dane County Circuit Court*

Sheriff Ann Hraychuck, *Polk County*

The Honorable Elsa Lamelas, *Milwaukee County Circuit Court*

William Lennon, *District Attorney, Winnebago County*

Ronald K. Malone, *Superintendent, Milwaukee House of Correction*

Gerald Mowris, *Attorney*

The Honorable Marshall Murray, *Milwaukee County Circuit Court*

Rick Myers, *Police Chief, Appleton, Wisconsin*

The Honorable Peter Naze, *Brown County Circuit Court*

Patti Seger, *Wisconsin Coalition Against Domestic Violence*

Michael Tobin, *Director, Trial Division, State Public Defender*

Rep. David Travis, *Wisconsin Assembly*

Sen. Dave Zien, *Wisconsin State Senate*

## **Non-Voting Members**

Matthew Frank, *Secretary, Wisconsin Department of Corrections*

A. John Voelker, *Director of Wisconsin State Courts*

Lenard Wells, *Chair, Wisconsin Parole Commission*

## **Staff**

Michael Connelly, *Executive Director*

Kristi Waits, *Deputy Director*

## EXECUTIVE SUMMARY

As mandated by the Wisconsin State Legislature, the Wisconsin Sentencing Commission (WSC) is required to submit semiannual reports on criminal sentencing practices imposed in the state. Each report must have a different focus, but need not contain statistics for every sentencing guidelines offense. These reports must also contain sentencing information statewide, as well as for the five designated geographic areas (i.e., Milwaukee County; Racine and Kenosha Counties; Dane and Rock Counties; Calumet, Winnebago, Outagamie, and Brown Counties; and all other counties). For this inaugural semi-annual report, the Commission chose to focus on burglary offenses. Burglary was chosen from the 11 guidelines offenses for its relative simplicity and straightforwardness. In addition, these crimes are typically more common, thus allowing for a larger data pool from which to conduct detailed comparisons across the required reporting regions.

The summary burglary statistics presented in this report were extracted from the Consolidated Court Automation Program (CCAP) data system. In an effort to keep the analysis as simple and meaningful as possible, only single-charge cases closed between February 2003 and December 2004 and sentenced to probation, prison/extended supervision were used.

Data are presented regarding three categories of burglary cases: Burglary, Burglary with Modifiers, and Burglary with Enhancers; two types of sentencing practices: Probation and Prison/Extended Supervision; and four types of geographic areas: State, County Regions, Judicial Districts, and Individual Counties.

Statewide, 70% of burglary cases were simple burglaries without aggravating or mitigating circumstances. Of those cases that contained additional judicial factors, 30% contained mitigating factors (Modifiers), while only 2% contained aggravating factors (Enhancers). The further-narrowed-down geographic regions all exhibit the same general trend, with the exception of the Dane/Rock Counties region and the Fox Valley region which exhibit nearly equal levels of Burglaries and Burglaries with Modifiers. All county regions exhibited few-to-no cases of Burglaries with Enhancers.

Statewide, 2/3 of burglary cases garnered Probation sentences, and the remaining 1/3 received Prison/ES sentences. As expected, cases with Modifiers exhibited higher rates of Probation sentences, and cases with Enhancers exhibited higher rates of Prison/ES sentences. These trends are followed throughout the county regions and judicial districts, with the exception of Milwaukee County which sentenced nearly equal amounts of cases to Prison/ES as Probation.

Statewide, Probation garnered the longest sentences (3.5 years), with the most severe sentences going to cases with Enhancers (5 years). Prison sentences were the shortest on average (2.8 years), and again cases with Enhancers were the longest in this category as well (3 years). Extended Supervision sentences were actually longer, on average, for cases of regular burglary (3.7 years) than for cases with Enhancers (3.5 years), indicating that cases involving enhancers serve a greater portion of their total sentence in confinement.

Data on sentence frequency and length is also presented for Judicial Districts and Individual Counties, though these results are potentially skewed by lower numbers of cases.

## **TABLE OF CONTENTS**

<b>Executive Summary .....</b>	<b>1</b>
<b>Introduction .....</b>	<b>3</b>
• Purpose.....	3
• WSC Data System .....	3
<b>Wisconsin Burglary Statistics .....</b>	<b>3</b>
• Overview .....	3
• Types of Cases .....	4
○ State.....	4
○ Geographic Regions.....	5
<b>Types of Sentences .....</b>	<b>5</b>
○ State.....	6
○ Geographic Regions.....	7
○ Judicial Administrative Districts .....	8
○ Counties.....	8
<b>Length of Sentences.....</b>	<b>9</b>
○ State.....	9
○ Geographic Regions.....	10
○ Judicial Administrative Districts .....	10
○ Counties.....	11
<b>Conclusion.....</b>	<b>12</b>

# INTRODUCTION

## Purpose of Report

---

Section 973.30(1)(i) of Wisconsin Statutes requires the Wisconsin Sentencing Commission (WSC) to submit semiannual reports containing criminal sentencing statistics imposed in the state. Each of these reports must contain statewide information, as well as information for the five designated geographic areas (i.e., Milwaukee County; Racine and Kenosha Counties; Dane and Rock Counties; Calumet, Winnebago, Outagamie, and Brown Counties; and all other counties). For its first semi-annual report, the Commission chose to explore sentencing practices related to Burglary offenses. Burglary constitutes one of the State's most frequent and intrusive felonies, and good information about current sentencing will substantially assist practitioners and policymakers alike.

## Burglary Data

---

The data used for this report were extracted from the Consolidated Court Automation Program (CCAP) system and provided to the Commission by the Director of State Courts office. These data include all single-charge Burglary and Burglary with a Dangerous Weapon cases that were disposed of between February 2003 and December 2004, and were sentenced to probation, prison, or extended supervision.

The Commission was originally provided with a raw data extract containing each individual case. Yet due to inconsistencies in analyses, it was necessary for the state courts office to prepare a summary spreadsheet of the offenses by counties. Although this provided sufficient information for the purposes of this report, the aggregate data did not allow for an in-depth analysis of additional sentencing factors such as age, race, and gender at this point. The Commission plans to pursue more detailed data for reporting in the future.

Using information contained in the CCAP extract, data for this report are presented by three categories of burglary cases: Burglary, Burglary with Modifiers, and Burglary with Enhancers; two types of sentencing practices: Probation and Prison/Extended Supervision; and four types of geographic areas: State, County Regions, Judicial Districts, and Individual Counties

# WISCONSIN BURGLARY CASES

## Overview of Burglary Cases

---

This report provides summary burglary statistics on case types, sentence types, and average sentence lengths. Since the implementation of the State's revised Truth-in-Sentencing policy (TIS II) in February 2003, there were 459 Burglary or Burglary with a Dangerous Weapon cases in the CCAP database. Although the Commission was provided with case information on both types of cases, due to the limited number of burglary cases involving a dangerous weapon (10), this report will only focus on burglary cases.

Yet, here is an overview of the results for burglary cases involving a dangerous weapon. Milwaukee County reported the most cases: 3, including 2 with Modifiers. Dane County reported 2 cases (one with Modifiers). Green Lake, Kenosha, Shawano, Sheboygan, and Winnebago Counties each reported one case, none with

Modifiers. There were no cases reported with Enhancers. 60% received Probation sentences, averaging 4.1 years. The remaining 40% received Prison/ES sentences, averaging 6.2 years, all split 50% Prison and 50% ES. 2 out of the 3 cases with Modifiers received Prison/ES sentences, and 5 out of the 7 regular cases received Probation sentences. Clearly, however, there is currently too little data on this subject to use any of these results without caution.

As mandated by the state legislature, the Wisconsin Sentencing Commission is required to report on sentences imposed statewide and in each of the five designated geographic areas: 1) Milwaukee County; 2) Racine and Kenosha Counties; 3) Dane and Rock Counties; 4) Calumet, Winnebago, Outagamie, and Brown Counties (i.e., Fox Valley); and 5) All other counties. In addition, this report will provide summary statistics for the 10 different judicial districts, as well as each individual county. The report includes analyses of the different types of burglary cases, the different sentences imposed, and the average sentence lengths.

## **Types of Burglary Cases**

For the purpose of providing a more accurate and detailed analysis of burglary sentences in Wisconsin, this report separated the cases into three categories: Burglary, Burglary with Modifiers, and Burglary with Enhancers. Burglary, the first category, represents those cases that did not contain additional factors affecting sentence outcomes. The second category, Burglary with Modifiers, represents those cases that contained additional mitigating factors (e.g., a party to the crime, attempt, and conspiracy) considered during the sentence phase of the case. Those cases that contained additional aggravating factors (e.g., habitual criminality and identity concealment) were placed in the third category, Burglary with Enhancers.

As shown in Figure 1, the majority of single-charge burglary case convictions did not contain additional judicial factors. Statewide, 70% of these cases were simple burglaries without aggravating or mitigating circumstances surrounding them. Of those cases that contained additional judicial factors, 30% contained mitigating factors, while only a fraction (2%) contained aggravating factors.

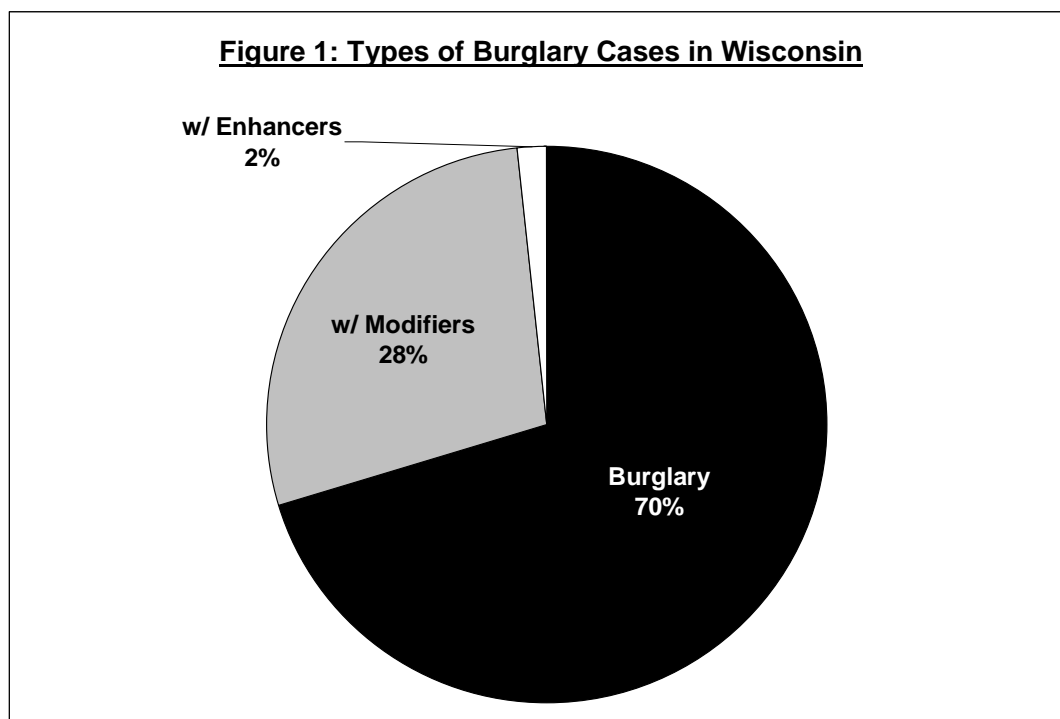
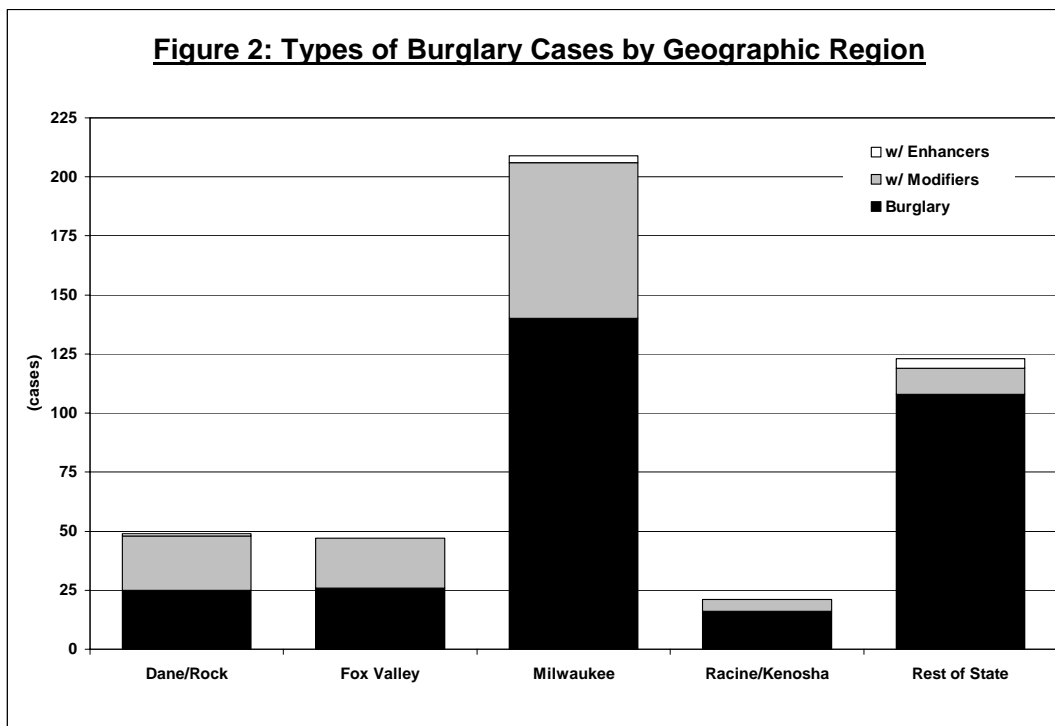


Figure 2 displays the burglary case types as reported in the five designated geographic regions. The majority of cases in all five regions are regular burglaries that do not contain additional judicial factors. The proportion of regular and adjusted burglary cases for both the Dane and Rock Counties region and the Fox Valley region is nearly even at close to 50%. However, the other three regions have a greater proportion of regular burglary cases than adjusted ones. The Rest of the State region has the highest percent (88%) of regular cases than any of the other four regions. Also important to note, the relatively small number of cases with penalty enhancers in all of the regions. In total, only 8 of the 449 burglary cases used in this analysis contain enhancers. Three can be found in the Milwaukee County region, one in the Dane/Rock Counties region, and the remaining four are in the Rest of the State region.



## Types of Burglary Sentences

Although judges have a variety of sentencing options at their discretion, for purposes of this report, sentences were separated into two categories: probation and prison/extended supervision (ES). Of the 449 cases, two-thirds of the defendants were sentenced to probation. As Figure 3 illustrates, statewide, 67% (300 cases) of the cases were given probation, while 33% (149 cases) were given prison/ES sentences.

**Figure 3: Types of Burglary Sentences in Wisconsin**

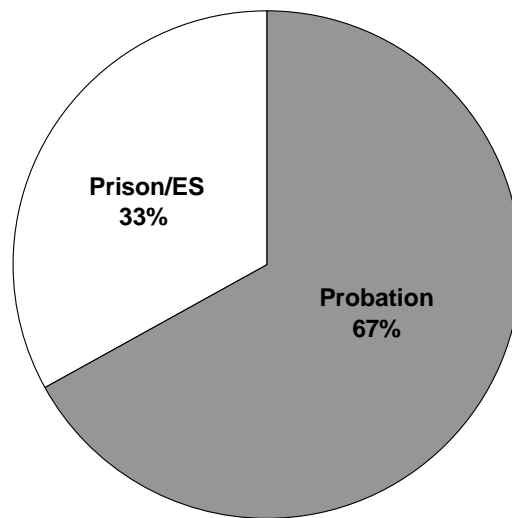


Figure 4 breaks down the statewide sentencing type statistics according to case type. Of the 315 regular burglary cases, 206 (65%) were given probation while the remaining 109 cases were sentenced to prison/ES. As to be expected, cases with modifiers had a higher percent of probation sentences (72%) than prison/ES (28%). And although cases with enhancers had a greater number of prison/ES sentences (5) than probation sentences (3), the total number of these cases did not provide an adequate sample size for a meaningful analysis.

**Figure 4: Types of Burglary Sentences and Case Types in Wisconsin**

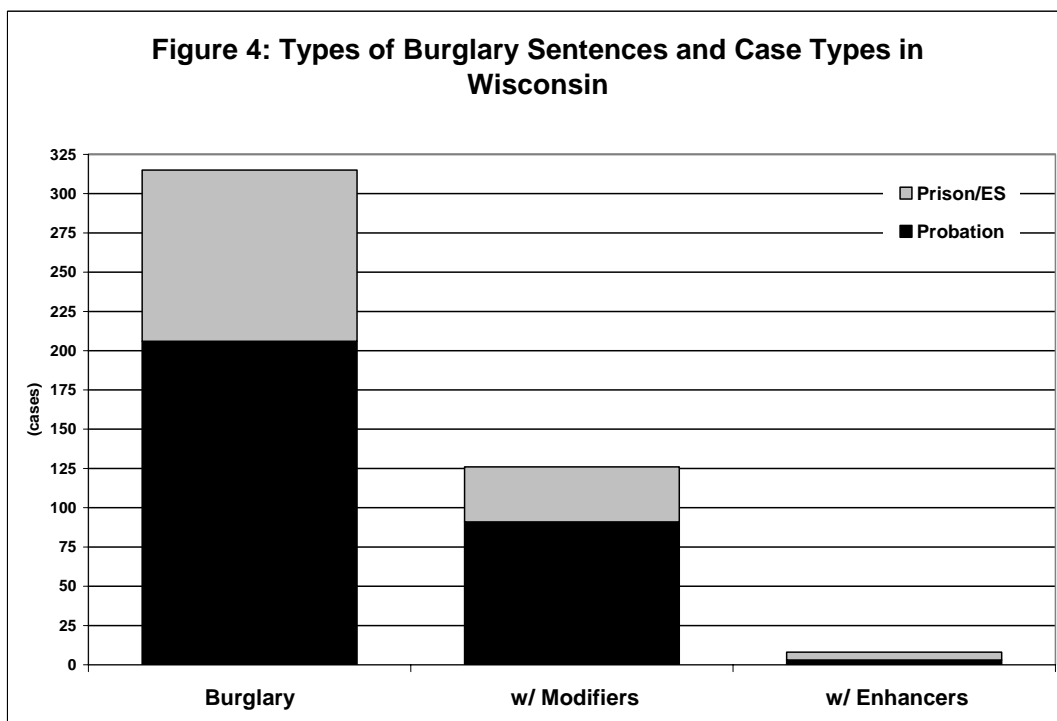


Figure 5 displays the sentence type distribution in each of the five geographic regions. In addition to the greatest number of cases (209), the Milwaukee region has the greatest proportion of prison cases (99) to



probation cases (110). Unlike the other four regions, nearly 50% of all burglary cases in the Milwaukee region are sentenced to prison/ES. The percent of cases sentenced to prison/ES in the other four regions are much lower, ranging from 13% (Fox Valley) to 24% (both Dane/Rock and Rest of the State).

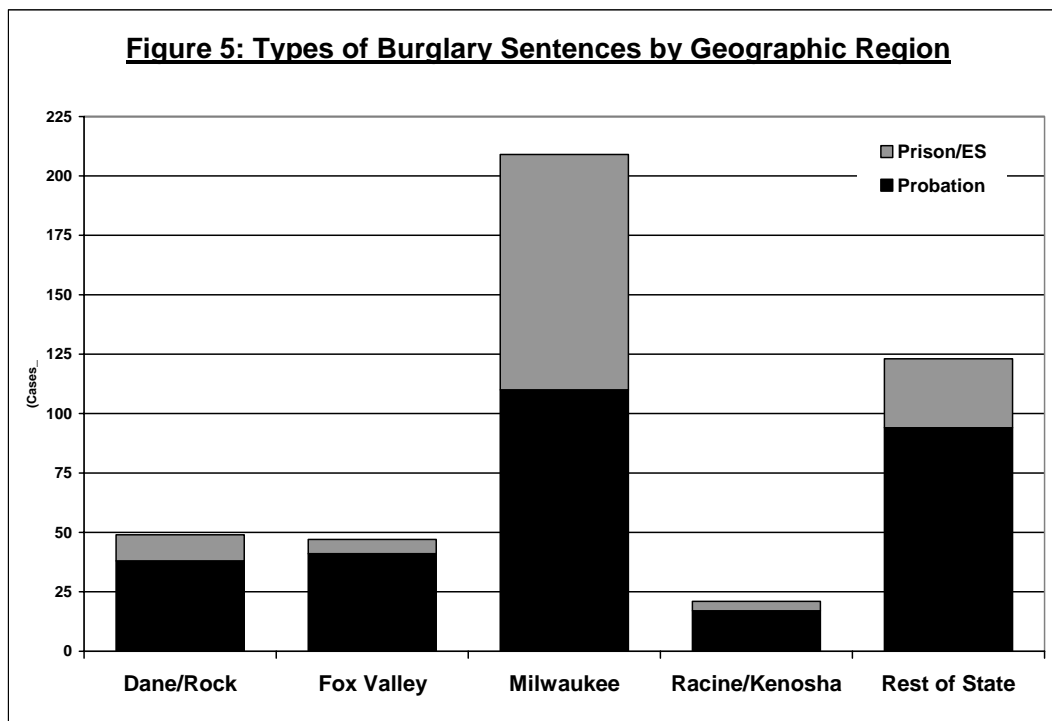
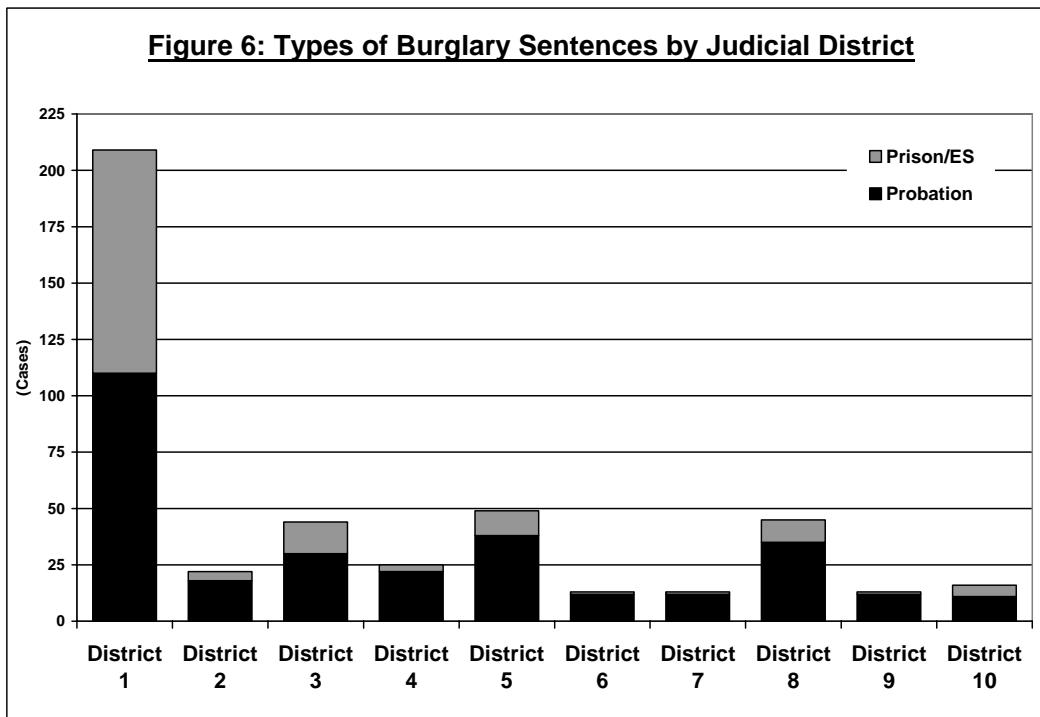
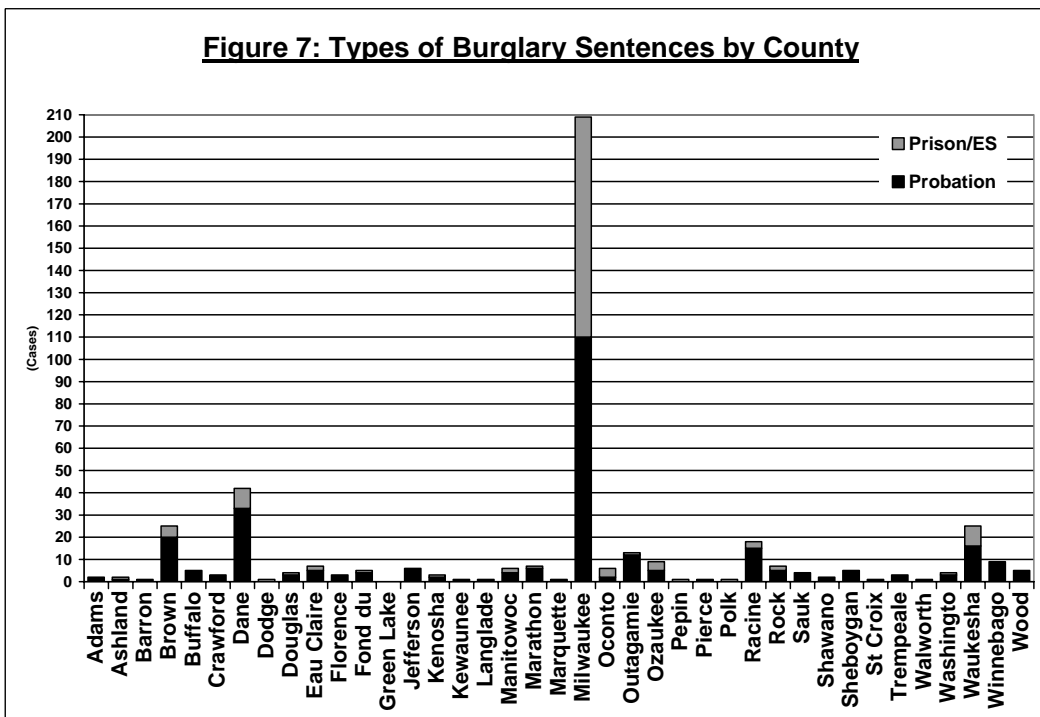


Figure 6 presents a breakdown of sentence types by judicial administrative districts. As to be expected, District 1 (Milwaukee County) has the greatest number of cases (209), as well as percent sentenced to prison/ES (47%). The percent of cases sentenced to prison/ES in the remaining nine districts was significantly lower than in District 1. District 3 and District 10 had the next highest rates, with nearly identical percentages of cases sentenced to prison/ES (32% and 31%, respectively). Following those two, District 5 and District 9 both sentenced 22% of burglary cases to prison/ES. In District 2, 18% of cases were sentenced to prison/ES, while only 12% in District 4. Finally, all of the burglary convictions in three districts (6, 7, and 9) were sentenced to probation.



Burglary sentences by county are represented in Figure 7. Although this drilled-down analysis limits the category sample sizes, it highlights the individuality and uniqueness of each county. Once again, Milwaukee leads the State in burglary case convictions with 209. As reported in the CCAP data system, only five other counties (Brown, Dane, Outagamie, Racine, and Waukesha) have more than 10 burglary convictions since February 2003. Of the 39 counties listed in the system, only nine sentenced burglary defendants to prison/ES. The majority of counties with burglary cases (28) handed down sentences of probation.



## Sentence Lengths of Burglary Cases

In addition to case and sentence types, this report also analyzes sentence lengths. These lengths are presented in years (or fractions thereof) and separated by type (i.e., probation, prison, and extended supervision). Once again, in order to provide a more accurate and detailed analysis, it is necessary to separate sentence lengths into the three case categories previously discussed (i.e., Burglary, Burglary with Modifiers, and Burglary with Enhancers).

Figure 8 illustrates statewide sentence lengths by case types. The sentencing patterns depicted in the graph appear to be similar to those reasonably expected. Sentence lengths for regular burglary cases are slightly higher than cases with mitigating factors and slightly lower than cases with aggravating factors. Overall, cases with modifiers had the lowest sentence lengths, while cases with enhancers had the highest. For regular burglary cases, the average length of probation was 3.5 years, prison was 2.8 years, and extended supervision was 3.7 years. In contrast, for cases with modifiers, the average probation, prison, and extended supervision sentences were 3.4 years, 2.4 years, and 3.1 years, respectively. It is also important to note that burglary cases with enhancers represent a relatively small sample size (8 cases), and must be interpreted cautiously.

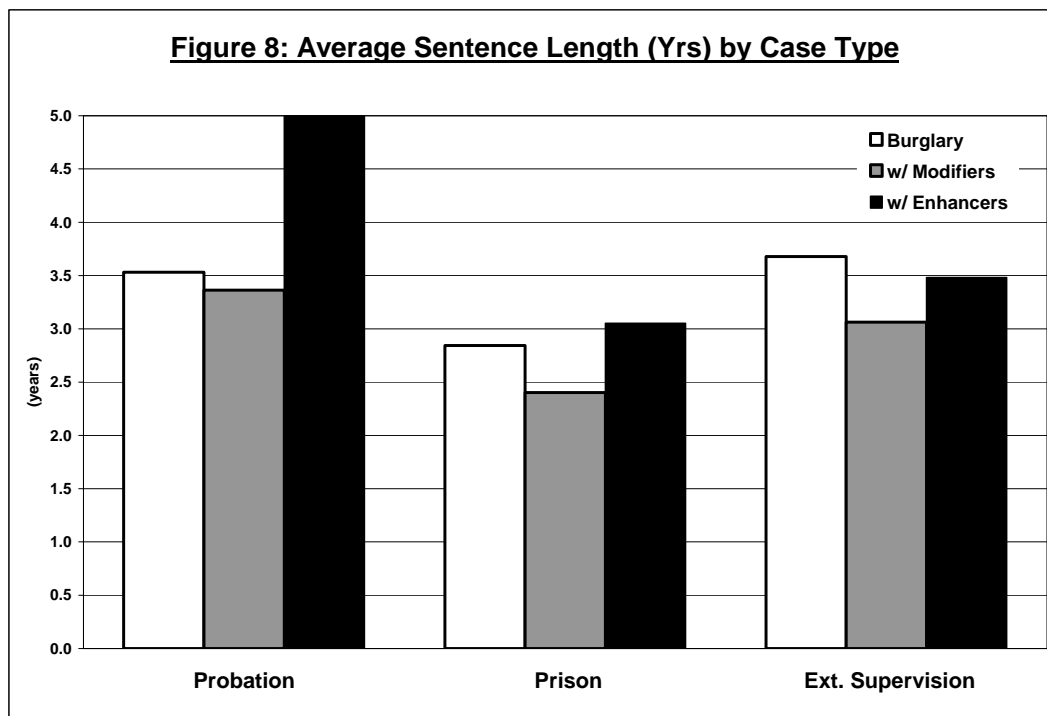


Table 1 contains the average sentence lengths in years by case type (i.e., probation, prison, and extended supervision) and designated geographic region. Most regions appear to have similar sentencing patterns as the statewide results. Regular burglary cases are typically sentenced to greater lengths than cases with mitigating circumstances and to shorter lengths than cases with aggravating circumstances. The two instances in which this does not occur are probation cases in the Rest of the State region and extended supervision cases in the Fox Valley region. In the rest of the state, defendants were sentenced an average of 4 years for burglary cases with modifiers and 3.7 years for burglary cases without adjustment factors. The same pattern can also be found in the Fox Valley region for extended supervision cases (4.2 yrs for cases with mitigating factors and 3.4 years with general burglary cases).

Another exception can be found in the Dane/Rock Counties region, with defendants receiving longer sentences for regular cases without adjustment factors than those cases with enhancers. Yet the number of these cases is relatively small (Reg = 10 cases, Enh = 1 case), and must be interpreted carefully. The same is

true of the inconsistency found in sentence lengths for cases with enhancements in the Rest of the State region. Once again, these numbers are based on one case and subsequently skew the results.

**Table 1: Average Sentence Length (Yrs) by Case Type and Region**

	PROBATION			PRISON			EXT. SUPERVISION		
	Reg	Mod	Enh	Reg	Mod	Enh	Reg	Mod	Enh
Dane/Rock	4.1	3.4	--	4.0	--	2.5	5.1	--	5.0
Fox Valley	3.5	3.5	--	2.8	2.5	--	3.4	4.2	--
Milwaukee	3.1	3.1	--	2.5	2.4	3.6	3.1	3.0	3.8
Racine/Kenosha	4.0	3.4	--	1.9	--	--	4.0	--	--
Rest of State	3.7	4.0	5.0	3.5	1.8	2.0	4.5	2.7	1.0

**Reg** = Burglary Cases w/o Adjustment Factors

**Mod** = Burglary Cases w/ Modifiers

**Enh** = Burglary Cases w/ Enhancers

-- = no cases

Like Table 1, Table 2 contains the average sentence length of burglary cases by case type. Yet, this table drills down further and presents sentence lengths by judicial administrative district. According to Table 2, the highest average probation sentence for regular burglary cases is 4.4 years (Districts 7 and 9). In contrast, District 6 has the lowest average probation sentence (2.8 years). The lowest average prison and extended supervision sentences (1.4 years and 2.0 years, respectively) for regular burglary cases can be found in District 9, while the highest sentence length overall (7.0 years for probation) can be found in District 6. Similar to the above table though, these results are based on relatively small sample sizes – sometimes as small as one case.

**Table 2: Average Sentence Length (Yrs) by Case Type and District**

	PROBATION			PRISON			EXT. SUPERVISION		
	Reg	Mod	Enh	Reg	Mod	Enh	Reg	Mod	Enh
District 1	3.1	3.1	--	2.5	2.4	3.6	3.1	3.0	3.8
District 2	3.9	3.4	--	1.9	--	--	4.0	--	--
District 3	4.1	--	--	4.1	--	--	5.0	--	--
District 4	3.0	3.0	--	2.5	--	--	4.0	--	--
District 5	4.1	3.4	--	4.0	--	2.5	5.1	--	5.0
District 6	2.8	--	7.0	2.0	--	--	4.0	--	--
District 7	4.4	--	5.0	6.0	--	--	4.0	--	--
District 8	3.8	3.5	--	2.3	2.5	--	4.0	4.2	--
District 9	4.4	5.3	--	1.4	--	--	2.0	--	--
District 10	3.6	3.0	3.0	4.5	1.8	2.0	3.7	2.7	1.0

**Reg** = Burglary Cases w/o Adjustment Factors

**Mod** = Burglary Cases w/ Modifiers

**Enh** = Burglary Cases w/ Enhancers

Table 3 presents a final analysis of average sentence lengths for burglary cases in Wisconsin. Although these results are based on sample sizes even smaller than the previous table, some might find a county-level analysis useful. For regular burglary cases sentenced to probation, Shawano County appears to have the longest average sentence length (5.5 years). Seven other counties (Barron, Buffalo, Langlade, Marathon, St. Croix, Ozaukee, and Washington) have average lengths greater than or equal to 5 years. Douglas County has the shortest average length of probation (2.3 years), while four other counties have sentence lengths below three years (Fond du Lac, Oconto, Winnebago, and Wood).

The longest average prison sentence for regular burglary cases can be found in Douglas County (7.0 years). Two counties have average sentence lengths in the six-year range (Pepin and Rock), while two more have average lengths in the five-year range (Ozaukee and Washington). Those counties with the shortest average sentence lengths (less than 2 years) include Outagamie, Marathon, Racine, Manitowoc, and Oconto. Overall, the majority of counties did not have burglary cases sentenced to prison/extended supervision.

**Table 3: Average Sentence Length (Yrs) by Case Type and County**

	PROBATION			PRISON			EXT. SUPERVISION		
	Reg	Mod	Enh	Reg	Mod	Enh	Reg	Mod	Enh
Adams	3.0	--	7.0	--	--	--	--	--	--
Ashland	--	3.0	--	--	1.7	--	--	2.5	--
Barron	5.0	--	--	--	--	--	--	--	--
Brown	3.8	3.4	--	3.3	2.5	--	3.7	4.2	--
Buffalo	5.0	--	5.0	--	--	--	--	--	--
Crawford	3.3	--	--	--	--	--	--	--	--
Dane	4.1	3.3	--	3.8	--	--	5.2	--	--
Dodge	--	--	--	2.0	--	--	4.0	--	--
Douglas	2.3	--	--	7.0	--	--	5.5	--	--
Eau Claire	4.0	3.0	3.0	--	2.0	2.0	--	3.0	1.0
Florence	3.0	--	--	--	--	--	--	--	--
Fond du Lac	2.8	--	--	4.0	--	--	4.0	--	--
Green Lake	--	--	--	--	--	--	--	--	--
Jefferson	3.3	--	--	--	--	--	--	--	--
Kenosha	4.5	--	--	3.0	--	--	2.0	--	--
Kewaunee	3.0	--	--	--	--	--	--	--	--
Langlade	5.0	--	--	--	--	--	--	--	--
Manitowoc	3.3	--	--	1.7	--	--	4.0	--	--
Marathon	5.0	5.3	--	1.4	--	--	2.0	--	--
Marquette	3.0	--	--	--	--	--	--	--	--
Milwaukee	3.1	3.1	--	2.5	2.4	3.6	3.1	3.0	3.8

<b>Oconto</b>	2.5	--	---	1.9	---	---	4.6	--	--
<b>Outagamie</b>	4.4	3.7	--	1.2	--	--	2.8	--	--
<b>Ozaukee</b>	5.2	--	--	5.3	--	--	5.3	--	--
<b>Pepin</b>	--	--	--	6.0	--	--	4.0	--	--
<b>Pierce</b>	4.0	--	--	--	--	--	--	--	--
<b>Polk</b>	--	--	--	2.0	--	--	2.0	--	--
<b>Racine</b>	3.8	3.4	--	1.5	--	--	4.7	--	--
<b>Rock</b>	4.5	3.7	--	6.0	--	2.5	4.0	--	5.0
<b>Sauk</b>	3.2	--	--	--	--	--	--	--	--
<b>Shawano</b>	5.5	--	--	--	--	--	--	--	--
<b>Sheboygan</b>	3.3	3.0	--	--	--	--	--	--	--
<b>St Croix</b>	5.0	--	--	--	--	--	--	--	--
<b>Trempealeau</b>	4.7	--	--	--	--	--	--	--	--
<b>Walworth</b>	3.0	--	--	--	--	--	--	--	--
<b>Washington</b>	5.3	--	--	5.0	--	--	5.0	--	--
<b>Waukesha</b>	3.8	--	--	3.5	--	--	4.8	--	--
<b>Winnebago</b>	2.8	--	--	--	--	--	--	--	--
<b>Wood</b>	2.4	--	--	--	--	--	--	--	--

**Reg** = Burglary Cases w/o Adjustment Factors

**Mod** = Burglary Cases w/ Modifiers

**Enh** = Burglary Cases w/ Enhancers

-- = no cases

## CONCLUSION

### Summary

This report provided summary burglary statistics as contained in the Consolidated Court Automation Program (CCAP) data system. In an effort to keep the analysis as simple and meaningful as possible, the report only included single-charge cases closed in Wisconsin between February 2003 and December 2004.

Data are presented regarding three categories of burglary cases: Burglary, Burglary with Modifiers, and Burglary with Enhancers; two types of sentencing practices: Probation and Prison/Extended Supervision; and four types of geographic areas: State, County Regions, Judicial Districts, and Individual Counties.

Statewide, 70% of burglary cases were simple burglaries without aggravating or mitigating circumstances. Of those cases that contained additional judicial factors, 30% contained mitigating factors (Modifiers), while only 2% contained aggravating factors (Enhancers). The further-narrowed-down geographic regions all exhibit the same general trend, with the exception of the Dane/Rock Counties region and the Fox Valley region which exhibit nearly equal levels of Burglaries and Burglaries with Modifiers. All county regions exhibited few-to-no cases of Burglaries with Enhancers.

Statewide, 2/3 of burglary cases garnered Probation sentences, and the remaining 1/3 received Prison/ES sentences. As expected, cases with Modifiers exhibited higher rates of Probation sentences, and cases with Enhancers exhibited higher rates of Prison/ES sentences. These trends are followed throughout the county regions and judicial districts, with the exception of Milwaukee County which sentenced nearly equal amounts of cases to Prison/ES as Probation. However, despite higher-than-average rates of Prison/ES sentences, Milwaukee County demonstrated lower-than-average sentence lengths in all three categories (probation, prison, and extended supervision) across all three case types (burglary, w/ modifiers, w/ enhancers).

Statewide, Probation garnered the longest sentences (3.5 years), with the most severe sentences going to cases with Enhancers (5 years). Prison sentences were the shortest on average (2.8 years), and again cases with Enhancers were the longest in this category as well (3 years). Extended Supervision sentences were actually longer, on average, for cases of regular burglary (3.7 years) than for cases with Enhancers (3.5 years), indicating that cases involving enhancers serve a greater portion of their total sentence in incarceration.

Data on sentence frequency and length is also presented for Judicial Districts and Individual Counties, though these results are potentially skewed by lower numbers of cases.